



Immigration
Advisers Authority

New Zealand Government



The Immigration Advisers Competency Standards 2013 &
The Registrar of Immigration Advisers Licensing Pathway
Requirements from 1 January 2013





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The Immigration Advisers Competency Standards 2013 come into effect on 1 January 2013. The competency standards are deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989, but are not regulations for the purposes of the Acts and Regulations Publication Act 1989.

Foreword

The *Immigration Advisers Licensing Act 2007* (the Act) requires anyone giving advice about New Zealand immigration matters to be licensed, unless they are exempt from the licensing requirements. As Registrar of Immigration Advisers, it is my duty to ensure that the immigration adviser licensing regime works to protect consumers and promote New Zealand as a migration destination.

Section 36 of the Act requires me to develop and maintain a set of standards to determine whether an applicant is competent. Applicants are assessed against these competency standards to help me decide whether or not to grant an initial licence or renew an existing one.

The *Immigration Advisers Competency Standards 2013* apply from 1 January 2013, and cover seven areas of competency:

1. Licence pathways
2. Knowledge of New Zealand's immigration advisers licensing scheme
3. Knowledge of New Zealand's immigration law and immigration and operational instructions
4. Preparing, lodging and administering immigration applications, appeals, requests, claims and other representations
5. Communicating in English
6. Conducting business professionally, ethically and responsibly
7. Continuing professional development

Applicants for a licence should note that different application requirements apply for full and limited licences, compared to provisional licences. These requirements are set out in the *Registrar of Immigration Advisers' Licensing Pathway Requirements from 1 January 2013*.

The method I must use to determine competence is set out at section 20 of the Act, and include all or any of the following:

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- consideration of the application material supplied by the applicant
 - an examination
 - an interview
 - review of any work carried out by the applicant relevant to the application
 - consideration of information provided by an overseas or international person, body, or agency
 - carrying out an inspection under section 57
 - consideration of any other matter relevant to the application.

If an applicant for an immigration adviser licence does not meet any or all of these competencies, I may:

- refuse to grant an immigration adviser licence; or
- grant an immigration adviser licence of a specific type to align with the competencies met.

In order to obtain, and keep a licence, immigration advisers must meet competency standards and adhere to a code of conduct. Each of these is equally important: competency standards give immigration advisers a way to prove their immigration expertise, and the code of conduct defines the ethical and professional standards expected of a licensed immigration adviser.

This booklet sets out the *Immigration Advisers Competency Standards* and the *Registrar of Immigration Advisers Licensing Pathway Requirements* in full, and is complemented by the *Licensed Immigration Advisers Code of Conduct*. All of these documents are also available at www.iaa.govt.nz.

To find out more about the competency standards, licensing pathway requirements or the code of conduct, contact the Immigration Advisers Authority by email at info@iaa.govt.nz, or call us free from within New Zealand on 0508 422 422. Overseas callers can dial +64 9 925 3838.

Barry Smedts | Registrar of Immigration Advisers

Immigration Advisers Competency Standards 2013

Minimum Standards of Competence for Licences

Minimum standard of competence for a full licence

To meet the minimum standard of competence for the granting of a full licence a person must demonstrate, to the satisfaction of the Registrar, that he or she meets each of the competencies set out in the Schedule.

Minimum standard of competence for a limited licence

To meet the minimum standard of competence for the granting of a limited licence a person must demonstrate, to the satisfaction of the Registrar, that he or she meets:

- (a) each of competencies 1, 2, 5, 6 and 7 in the Schedule; and
- (b) the performance indicators set out underneath competencies 3 and 4 in the Schedule, to the extent that he or she

is competent to provide immigration advice in relation to limited specified matters without the direct supervision of a licensed immigration adviser.

Minimum standard of competence for a provisional licence

To meet the minimum standard of competence for the granting of a provisional licence a person must demonstrate, to the satisfaction of the Registrar, that he or she meets each of the competencies set out in the Schedule to the extent that he or she is competent to provide immigration advice under the direct supervision of an immigration adviser with a full licence.

Performance indicators

A person will be treated as meeting a competency if he or she meets each of the performance indicators set out underneath that competency in the Schedule.

Competency standard 1: Licence pathways

Performance indicators

Licence applicants who do not hold a current licence must:

- 1.1 Hold a qualification approved by the Registrar for the licence type being applied for, completed within the 12 months before the date the licence application is lodged, **OR**
- 1.2 Have completed a refresher course that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the adviser holds a qualification approved by the Registrar for the licence type being applied for which was completed more than 12 months before the date the licence application is lodged, **OR**
- 1.3 Have held a New Zealand immigration adviser licence within the six months before the date the licence application is lodged and their most recent licence expired or was surrendered, **OR**
- 1.4 Have completed a refresher course that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the applicant has held a New Zealand immigration adviser licence within the 36 months before the date the licence application is lodged and their most recent licence expired or was surrendered.

Licence applicants who are applying to renew their current licence must:

- 1.5 Hold a current New Zealand immigration adviser licence.

Licence applicants who hold a current limited or provisional licence and are applying to upgrade their licence must:

- 1.6 Hold a qualification approved by the Registrar for the licence type being applied for, completed within the 12 months before the date the licence application is lodged, **OR**
- 1.7 Where the limited or provisional licence was granted before 1 January 2013 and the upgrade application is lodged before 31 December 2014, provide evidence that they meet the competency standards according to the Registrar's licence upgrade requirements.

Competency standard 2: Knowledge of New Zealand's immigration advisors licensing scheme

Performance indicators

Advisers must be able to demonstrate knowledge of:

- 2.1 The purpose and key provisions of the Immigration Advisors Licensing Act 2007.
- 2.2 The functions of the Immigration Advisors Authority and the Registrar of Immigration Advisors.
- 2.3 Who must be licensed to provide New Zealand immigration advice.
- 2.4 Who is exempt or prohibited from the requirement to be licensed to provide New Zealand immigration advice.
- 2.5 What constitutes 'immigration advice'.
- 2.6 The role of the Immigration Advisors Complaints and Disciplinary Tribunal: its functions and powers; grounds for complaint; disciplinary sanctions; and possible outcomes from complaints procedures.
- 2.7 All of the offences under the Immigration Advisors Licensing Act 2007.
- 2.8 The responsibilities of licensed immigration advisors including: adhering to the code of conduct; continuing professional development requirements; annual licence renewal and notifying the Registrar of changes in circumstances.

Competency standard 3: Knowledge of New Zealand immigration law and immigration and operational instructions

Performance indicators

Advisers must be able to demonstrate:

- 3.1 Knowledge of and the ability to apply the Immigration Act 2009, its regulations and applicable international obligations, including an understanding of the key principles of natural justice and administrative law as they apply to immigration decision-making.
- 3.2 Knowledge of and the ability to apply immigration and operational instructions made under the Immigration Act 2009.

3.3 Knowledge of and the ability to provide tailored advice on avenues for seeking assistance including the Immigration New Zealand, Immigration Advisers Authority, and Immigration and Protection Tribunal websites and the Immigration New Zealand contact centre.

3.4 Knowledge of and the ability to provide tailored advice on the full range of immigration matters relating to applications, appeals, requests, claims and other representation including but not limited to: applications for temporary entry; applications for residence; claims for refugee and protection status; dealing with a client's unlawful status; and dealing with appeals and requests under the Immigration Act 2009.

3.5 The ability to assist clients to access information about New Zealand culture and traditions, including the Treaty of Waitangi and tikanga.

3.6 Knowledge of New Zealand's Privacy Act 1993, Official Information Act 1982 and Ombudsmen Act 1975 and how the rights under those Acts can be accessed and utilised to the advantage of clients in the immigration context.

Competency standard 4: Preparing, lodging and administering immigration applications, appeals, requests, claims and other representation

Performance indicators

Advisers must be able to demonstrate the ability to:

4.1 Assess a client's immigration situation including: establishing eligibility criteria; gathering appropriate information; conducting preliminary assessments; identifying potential barriers to eligibility; evaluating the possible range of options; providing correct advice and information; and providing reasons for the advice given.

4.2 Provide services in an ethical, timely, conscientious, complete and accurate manner including: planning the application process; clearly communicating requirements with clients; co-ordinating the preparation of applications; lodging applications with required supporting documents; taking all reasonable steps to inform clients to submit accurate and genuine documentation and the consequences of not doing so; satisfying all lodgement requirements; applying immigration knowledge as appropriate and in a manner that protects clients' immigration status and entitlement; and understanding the requirements relating to medical evidence and advising clients appropriately, with a view to providing full information to Immigration New Zealand.



4.3 Represent clients through the immigration application process including: following up on applications; liaising with Immigration New Zealand as required; keeping clients informed in a consistent manner; recognising and working within time limits; understanding and responding appropriately to issues as they arise including responding promptly to correspondence from Immigration New Zealand, the client and third parties; completing the process following decision-making including the timely return of clients' documents; ensuring decisions are communicated to clients with the details and implications of outcomes explained, particularly appeal and review rights; checking visa labels for accuracy; advising clients in a timely manner of the procedures for complaints and the avenues for redress including appeal rights; and taking any necessary follow-up action.

4.4 Represent clients through the refugee or protection claim process or know when and where to refer clients for specialist advice including: recognising when clients have potential refugee or protection claims and advising clients of the ability to lodge a claim; explaining the consequences of making a refugee or protection claim; explaining how a claim is made; completing claim documentation; advising clients of the ability to apply for a visa; representing clients in relation to refugee or protection claims, including cessation or cancellation procedures; understanding the special needs of victims of trauma; or referring clients to appropriate specialists.

4.5 Represent clients through appeals or know when and where to refer clients for specialist advice including: recognising when clients have appeal rights; advising clients of the right to appeal and appeal time limits; explaining the consequences of making an appeal, including whether or not they may stay in New Zealand while the appeal is being decided; or referring clients to appropriate specialists.

4.6 Make requests for special directions or know when and where to refer clients for specialist advice including: recognising when a request for a special direction is appropriate and advising clients of the option; completing request documentation and delivering it to the appropriate decision-maker; representing the client through the process; or referring clients to appropriate specialists.

4.7 Represent clients in relation to compliance and deportation matters or know when and where to refer clients for specialist advice including: recognising when clients may be liable for deportation and advising clients of their liability; and explaining the consequences of deportation.

Competency standard 5: Communicating in English

Performance indicators

Advisers must be able to demonstrate:

- 5.1 Completion of an International English Language Testing System (IELTS) test with minimum academic scores of Reading 6.5; Listening 6.5; Speaking 6.5; and Writing 6.5 with a minimum overall IELTS academic band score of 7.0 or over (evidence of IELTS test scores achieved in more than one sitting is acceptable if the applicant has taken the second and any subsequent IELTS tests within 12 months of the first test and the applicant has achieved a minimum overall IELTS academic band score of 7.0 in each test); **OR**
- 5.2 Completion of a Test of English as a Foreign Language (TOEFL) paper-based test (pBT) with a minimum total score of 600 and a minimum score of 5 in the Test of Written English (TWE); **OR**
- 5.3 Completion of a Test of English as a Foreign Language (TOEFL) internet-based test (iBT) with a minimum total score of 100 and a minimum score of 24 in writing; **OR**
- 5.4 Completion of primary schooling (or equivalent) and at least three years' secondary schooling (or equivalent) in schools where the education was conducted in the English language; **OR**
- 5.5 Completion of five years' secondary schooling (or equivalent) in schools where the education was conducted in the English language.

NOTE

In any case of doubt relating to 5.4 or 5.5 the applicant may be required to complete a test to the standard set out at 5.1, 5.2 or 5.3.

- 5.6 The ability to complete written documentation in English to a professional standard including: forms; letters; emails; client file notes; written agreements; and detailed and well structured written submissions, arguments or presentations.
- 5.7 The ability to communicate orally in English to a professional standard including: conducting telephone and face-to-face interviews; active listening; dealing with conflict; and delivering detailed and well structured oral presentations, submissions or arguments.

Competency standard 6: Conducting business professionally, ethically and responsibly

Performance indicators

Advisers must be able to demonstrate:

- 6.1 Understanding of and commitment to professional, ethical, socially responsible and culturally sensitive behaviour and practice; in particular, to all aspects of the licensed immigration advisers code of conduct.
- 6.2 Understanding of the importance of and commitment to working within the limitations of the individual's knowledge and skills, including making decisions and taking action consistent with the adviser's own level of expertise and skills, and recognising when professional development, specialist advice or referral is required.
- 6.3 The ability to manage a business in accordance with New Zealand law and the licensed immigration advisers code of conduct including the management of client services, business accounts and finances, and where appropriate seek the assistance of other professionals.
- 6.4 The ability to use interpreters and translators when English is a barrier to communication and understanding of the importance of professional and ethical standards.
- 6.5 The ability to develop and maintain ethical and professional relationships with Immigration New Zealand and other relevant organisations.
- 6.6 The ability to develop and maintain ethical and professional relationships with clients.
- 6.7 The ability to develop and apply a clear and understandable written agreement that includes a full description of the services to be provided by the adviser; advice that they are entitled to seek independent legal advice before entering into agreements; fees to be charged and payment schedule; how and when the client will be invoiced, and any refund policy.
- 6.8 Understanding of the importance of quality assurance techniques to the provision of immigration advice such as checklists, peer review, case reviews, supervision, team briefings; and the ability to apply these.

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- 6.9 The ability to identify when it is appropriate to refer a client to another professional, including referral to the legal profession where there may be a case for an appeal to the High Court or judicial review proceedings.

Competency standard 7: Continuing professional development

Performance indicators

- 7.1 Advisers who are renewing or upgrading their licence must have evidence of at least 20 hours of professional development activities undertaken in the past 12 months relevant to any aspect of the immigration adviser competency standards and/or the licensed immigration advisers code of conduct, including conducting business professionally, ethically and responsibly. Professional development activities must include active learning and may include self-directed learning.

Licensing Pathway Requirements

The Registrar of Immigration Advisers' Licensing Pathway Requirements from 1 January 2013

On 14 April 2012, the Minister of Immigration approved the Immigration Advisers Competency Standards 2013, which come into effect from 1 January 2013.

On 30 April 2012 the Registrar of Immigration Advisers approved the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice qualification.

Set out below are the Registrar's application requirements for each type of immigration adviser licence, which are to be read in conjunction with the Immigration Adviser Competency Standards 2013.

Full licence

From 1 January 2013, applicants for a full licence must:

Hold the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice, completed within the 12 months before the

date the licence application is lodged, **OR**

Have completed a refresher course* that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the adviser holds the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice which was completed more than 12 months before the date the licence application is lodged, **OR**

Have held a full New Zealand immigration adviser licence within the six months before the date the licence application is lodged and their most recent licence expired or was surrendered, **OR**

Have completed a refresher course* that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the applicant has held a New Zealand immigration adviser licence within the 36 months before the date the licence application is lodged and their most recent licence expired or was surrendered.



Limited licence

From 1 January 2013, applicants for a limited licence must:

Hold the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice, completed within the 12 months before the date the licence application is lodged, **OR**

Have completed a refresher course* that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the adviser holds the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice which was completed more than 12 months before the date the licence application is lodged, **OR**

Have held a limited (or full) New Zealand immigration adviser licence within the six months before the date the licence application is lodged and their most recent licence expired or was surrendered, **OR**

Have completed a refresher course* that is approved by the Registrar, completed within the 12 months before the date the licence application is lodged, where the applicant has held a limited New Zealand immigration adviser

licence within the 36 months before the date the licence application is lodged and their most recent licence expired or was surrendered.

Provisional licence

From 1 January 2013, applicants for a provisional licence must:

Have passed Course A and Course B of the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice within the 12 months before the date the licence application is lodged, **OR**

Have held a provisional New Zealand immigration adviser licence within the six months before the date the licence application is lodged and their most recent provisional licence expired or was surrendered.

Upgrades

From 1 January 2013, licence applicants who hold a current limited or provisional licence and are applying to upgrade their licence must:

Hold the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice completed within the 12 months before the date the licence application is lodged, **OR**



Where the limited or provisional licence was granted before 1 January 2013 and the upgrade application is lodged before 31 December 2014, provide evidence that they meet the competency standards according to the Registrar's licence upgrade requirements.

Refresher course*

The approved refresher course is to comprise Module 10 Professional Practice, plus two other modules chosen from Courses B, C or D from the Bay of Plenty Polytechnic's Graduate Certificate in New Zealand Immigration Advice.



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